HOUSE RESEARCH ORGANIZATION • TEXAS HOUSE OF REPRESENTATIVES
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HOUSE RESEARCH ORGANIZATION

daily floor report

Monday, March 25, 2019
86th Legislature, Number 33
The House convenes at 10 a.m.

Ten bills are on the daily calendar for second reading consideration today. The table of contents appears on the following page.

The following House committees were scheduled to hold public hearings at 8 a.m.: Elections in 2.016; and Judiciary and Civil Jurisprudence in E2.026. The following House committees were scheduled to hold public hearings at 10:30 a.m. or on adjournment/recess or bill referral if permission granted: Agriculture and Livestock in E2.036; House Administration in E1.010; and State Affairs in JHR 140. The following House committees were scheduled to hold public hearings at 2 p.m. or on adjournment/recess or bill referral if permission granted: Energy Resources in E2.010; Defense and Veterans Affairs in E1.026; and Criminal Jurisprudence in E2.012. The House Public Health Committee was scheduled to hold a formal meeting at 1 p.m. or on adjournment/recess or bill referral if permission granted in 1W.14 (Agricultural Museum).

Dwayne Bohac
Chairman
86(R) - 33

HOUSE RESEARCH ORGANIZATION

Daily Floor Report
Monday, March 25, 2019
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SUBJECT: Requiring school districts to offer info on EKGs to UIL student-athletes

COMMITTEE: Public Education — committee substitute recommended

VOTE: 11 ayes — Huberty, Bernal, Allen, Ashby, K. Bell, M. González, K. King, Meyer, Sanford, Talarico, VanDeaver

0 nays

2 absent — Allison, Dutton

WITNESSES: For — Thomas DeBauche, Cody Stephens Memorial Foundation; Ray Zepeda, Cypress-Fairbanks ISD; Kyle Cooper, Gatesville ISD; Keith Bryant, Lubbock-Cooper ISD; Joe Martin, Texas High School Coaches Association; David Plylar; Drew Sanders; Scott Stephens; (*Registered, but did not testify*: Chris Masey, Coalition of Texans with Disabilities; Mary DeBauche, Cody Stephens Memorial Foundation; Bill Kelly, City of Houston Mayor's Office; Will Francis, National Association of Social Workers-Texas Chapter; Paige Williams, Texas Classroom Teachers Association; Jerod Patterson, Texas Rural Education Association; Buck Gilcrease, Texas School Alliance; Jason Sabo; Melody Stephens; Vance Stephens; Columba Wilson)

Against — Jaime Capelo, American College of Cardiology Texas Chapter

On — Jamey Harrison, UIL; (*Registered, but did not testify*: Monica Martinez, Texas Education Agency; Troy Alexander, Texas Medical Association)

DIGEST: CSHB 76 would require school districts to provide information on sudden cardiac arrest and electrocardiogram (EKG) testing to students who were required under University Interscholastic League (UIL) policy to receive a physical exam before participating in athletic activities sanctioned or sponsored by the UIL. School districts also would be required to notify students of the option to request EKG testing in addition to the physical examination. Students could request an EKG from any appropriately licensed health care professional.

The UIL would adopt rules necessary to administer these provisions, including:

- criteria under which a school district could request an exemption from the requirements to provide information on EKGs to students and to notify students of optional EKG testing;
- variances that allow for a delay in implementing the requirement to notify students of optional EKG testing;
- procedures to notify students receiving required annual physical examinations of optional EKG testing; and
- provisions to ensure school districts have the option to implement programs that exceed the requirements of this bill.

The bill would not create a cause of action or liability or a standard of care that would provide a basis for the liability of a licensed health care professional, the UIL, a school district, or district officer or employee for:

- the injury or death of a student participating in UIL activities in connection with the administration, evaluation, or reliance on an EKG result; or
- the content or distribution of the information on EKGs required to be provided under the bill or the failure to distribute the required information.

CHSB 76 would apply beginning with the 2019-2020 school year.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.

SUPPORTERS SAY:

CSHB 76 would help save the lives of Texas student-athletes by providing them with information about an optional EKG screening that could detect heart defects that could lead to sudden cardiac arrest. The bill also would preserve parental rights without placing an undue burden on school districts.

Sudden cardiac arrest is a preventable event that has needlessly claimed the lives of Texas student-athletes. Current physicals administered to student-athletes have not been effective at indicating heart problems that could lead to sudden cardiac arrest. EKGs are effective, inexpensive, and non-intrusive tests that can detect cardiovascular issues, and school districts that have already implemented EKG screening programs have helped some student-athletes discover serious cardiac abnormalities and receive treatment. Requiring school districts to provide information about optional EKG screenings to all students participating in UIL events could allow more potential cardiac issues to be identified before they became life-threatening.

The bill would preserve parental rights by allowing parents to opt in to EKG testing in a UIL athlete's required annual physical. The bill does not include a mandate that would force students to undergo an EKG.

CSHB 76 also would protect school districts and physicians from liability in the event of a student-athlete's injury or death. The bill would ensure that smaller districts with limited resources could delay implementation after demonstrating a hardship.

OPPONENTS SAY:

By requiring that student-athletes be offered the option of an EKG, CSHB 76 could lead to parents and students being misinformed about the risk of sudden cardiac arrest. EKGs are not scientifically proven to detect risk factors for sudden cardiac arrest, and a negative result on an EKG screening could lead parents to incorrectly conclude that their child was not suffering from a cardiac condition despite the presence of other symptoms.

The bill could infringe on local control by mandating what resources must be provided by school districts. Better strategies are available to reduce incidences of sudden cardiac arrest in student-athletes, such as requiring stricter physical exams and family medical histories and providing easily accessible defibrillators in school facilities.

CSHB 76 is unnecessary because about 30 percent of Texas school districts are already performing EKG screening on student-athletes, and the UIL already provides information to parents and students on cardiac

conditions.

OTHER OPPONENTS SAY:

CSHB 76 would not address the whole school population, only UIL participants. Students other than athletes could be affected by sudden cardiac arrest.

SUBJECT: Revising ID application requirements for foster and homeless children

COMMITTEE: Human Services — committee substitute recommended

VOTE: 8 ayes — Frank, Hinojosa, Deshotel, Klick, Meza, Miller, Noble, Rose

0 nays

1 absent — Clardy

WITNESSES: For — Brett Merfish, Texas Appleseed; Sarah Crockett, Texas CASA; Tymothy Belseth; (*Registered, but did not testify*: Jackie Gardner, CASA of Travis County; Jo DePrang, Children's Defense Fund-Texas; Lee Spiller, Citizens Commission on Human Rights; Chris Masey, Coalition of Texans with Disabilities; Will Francis, National Association of Social Workers; Kate Murphy, Texans Care for Children; Kathryn Freeman, Texas Baptist Christian Life Commission; Sabrina Gonzalez, Texas CASA; Joshua Houston, Texas Impact; Lauren Rose, Texas Network of Youth Services; Lee Nichols, TexProtects; Jennifer Allmon, Texas Catholic Conference of Bishops; Katie Olse, Texas Alliance of Child and Family Services; Nataly Sauceda, United Ways of Texas; Knox Kimberly, Upbring)

Against — None

On — Mimzie Dennis, Texas Department of Public Safety; Mary Christine Reed, Texas RioGrande Legal Aid; (*Registered, but did not testify*: Liz Kromrei, Department of Family and Protective Services)

BACKGROUND: Transportation Code sec. 521.101(j) prohibits the Department of Public Safety from issuing a personal identification certificate to a person who has not established a domicile in the state. Sec. 521.101(d-1) requires applicants for this certificate to furnish proof of U.S. citizenship, or, if not a U.S. citizen, evidence of lawful presence.

37 TAC part 1, ch. 15, subch. B, sec. 15.30 requires applicants for an identification certificate to present proof of identity. Sec. 15.24 names

three categories of documents that may be presented to establish proof of identity and stipulates that an original or certified copy of a birth certificate is not in itself adequate to establish identity but must be accompanied by two pieces of support identification or another piece of secondary identification, if no primary identification is provided.

Transportation Code sec. 521.1811 waives the driver's license fee for foster children and youth.

DIGEST:

CSHB 123 would allow foster children and youth, homeless children and youth, and unaccompanied youth to apply for and receive a personal identification certificate without permission from a parent or guardian and without paying a fee.

"Homeless child or youth" and "unaccompanied youth" would be defined using the definition in federal law, and a foster child or youth would be defined in the bill as a child in the managing conservatorship of DFPS or a young adult aged 18 to 20 who resides in a foster care placement paid for by DFPS.

Alternative address. Homeless children or youth, unaccompanied youth, and foster children would be allowed to use a Department of Family and Protective Services (DFPS) regional office address in lieu of a home address when applying for a personal identification certificate if the child or youth had a caseworker based at that address. Alternatively, an applicant could provide a letter certifying that the applicant was homeless issued by a school district, emergency shelter, center for runaways, or transitional living program.

Birth record. The bill also would require the state registrar, a local registrar, or a county clerk to issue at the child or youth's request, without fee or parental consent, a certified copy of a child's or youth's birth record. The bill would allow these children or youth to provide a copy of their birth certificate as proof of identity and citizenship when applying for an identification certificate.

Fee waivers. The bill would expand the existing driver's license fee waiver for foster children and youth to include homeless children and

youth and unaccompanied youth. The bill also would exempt all these categories of children and youth from the payment of any fee for the issuance of a personal identification certificate.

The bill would take effect September 1, 2019, and would apply to applications for a driver's license, personal identification certificate, or birth record submitted on or after that date.

SUPPORTERS SAY:

CSHB 123 would help children and youth who are in the foster care system or who are homeless by making it easier for them to obtain personal identification documents.

When members of this vulnerable population are unable to obtain identification documents, they face greater difficulty transitioning into functional adulthood. The bill would help them more easily secure documents that generally are needed to secure a job, enroll in school or college, secure housing, and access medical services. Children and youth who have identification papers also are less likely to become victims of human trafficking.

Cost is a significant barrier faced by foster and homeless children and youth seeking to obtain identification papers and keep them up to date. CSHB 123 would address this by waiving several fees. Current statute already exempts foster children and youth from driver's license fees, but no similar waiver exists for identification certificates, which are more in demand by foster children. The bill would waive this fee while also extending the same fee waivers to homeless children and youth.

The bill would provide another key benefit to these vulnerable populations by allowing them to use a DFPS office as their mailing address. Members of the foster care population may change placements frequently and with little notice, which can leave them without up-to-date identification cards. This makes it more difficult for these children and youth to be notified of legal charges pending, and it puts them out of compliance with state law that requires individuals who move to update their driver's license or identification card.

Concerns regarding the constitutionality of provisions of the bill

impacting the Texas Mobility Fund could be addressed in an amendment.

OPPONENTS SAY:

By waiving fees for driver's licenses and personal identification certificates, CSHB 123 would reduce, rescind, or repeal the dedication of a specific source or portion of revenue dedicated to the Texas Mobility Fund. This would be prohibited under the Texas Constitution unless the Legislature by law substituted a different source of revenue for the Texas Mobility Fund that was projected to be of equal or greater value.

NOTES:

The bill author intends to offer a floor amendment to create an identification fee exemption account, which would consist of grants and donations made for the purpose of depositing to the Texas Mobility Fund amounts equal to the fee waivers given to foster children and youths and homeless children and youths. The amendment would allow persons applying for or renewing a driver's license, personal identification card, or duplicate license or card to donate $1 or more to this fund. DPS could not grant a fee waiver exemption if an insufficient amount of money were available in the identification fee exemption account.

The bill amendment also would:

- remove references in the bill to “unaccompanied youth”; and
- direct DFPS, when obtaining a copy of a birth certificate for a foster youth, or assisting a foster youth in obtaining one, first to seek a copy from the state registrar, then from a local registrar or county clerk if DFPS were unable to obtain the copy at the state registrar.

SUBJECT: Requiring TDCJ to notify courts that certain inmates have served 75 days

COMMITTEE: Corrections — favorable, without amendment

VOTE: 7 ayes — White, Allen, Bailes, Bowers, Dean, Sherman, Stephenson

0 nays

1 absent — Neave

WITNESSES: For — Allison Franklin, Texas Criminal Justice Coalition; (*Registered, but did not testify*: Lauren Johnson, ACLU of Texas; Traci Berry, Goodwill Central Texas; Kathleen Mitchell, Just Liberty; Lori Henning, Texas Association of Goodwills; Lauren Oertel, Texas Inmate Families Association)

Against — None

On — Lorie Davis, TDCJ

BACKGROUND: Code of Criminal Procedure art. 42A.558 governs cases in which defendants convicted of a state jail felony who violate conditions of their community supervision have their probation revoked by a judge after a hearing and are held in a state jail felony facility. After a defendant has served 75 days, the judge may suspend further execution of the sentence and again place the defendant under community supervision.

DIGEST: HB 155 would require the Texas Department of Criminal Justice (TDCJ) to notify the sentencing court of the date on which a defendant whose community supervision was revoked would have served 75 days in a state jail felony facility. Such notice would have to be given by the 60th day a defendant had served. The notice must be provided via email or other electronic communication.

The bill would take effect September 1, 2019, and would apply only to a defendant who received a sentence of confinement in a state jail on or after that date.

SUPPORTERS SAY:

HB 155 would increase the opportunity for some defendants convicted of state jail felonies to have their sentences suspended and to be placed under community supervision. This would give these defendants a better opportunity at rehabilitation, help alleviate the burden on overcrowded jails, and reduce costs to the criminal justice system.

Although judges currently have the ability to suspend some state jail sentences after a defendant has served 75 days, this is rarely done because judges are not notified when defendants become eligible for probation. HB 155 would require notice that defendants were approaching eligibility to be sent to sentencing courts, increasing the opportunity for judges to place these defendants under community supervision. This would better serve defendants, who often have better access to meaningful services and resources when on community supervision than when in a state jail. Improving access to these services, such as those that help defendants find employment, also could help lower state jails' high recidivism rates.

Enabling judges to place more offenders under community supervision would lessen the burden currently placed on overcrowded state jails and reduce their operational costs. Community supervision costs only a few dollars per day per offender, much less than the cost to confine an offender in a state jail.

The bill would not add to administrative bureaucracy, as an email notification system already is in place at the agency and could be modified to send the required notices.

OPPONENTS SAY:

Because adequate opportunities already exist for judges to be notified that an inmate is eligible for community supervision, HB 155 would impose an unnecessary mandate on TDCJ. The notification required by the bill would create unnecessary administrative bureaucracy seemingly in order to encourage judges to consider granting probation to convicted state jail felons. The duty to issue such reminders belongs the judges and attorneys taking part in the original criminal proceeding.

SUBJECT: Requiring a DPS database for defendants subject to alcohol monitoring

COMMITTEE: Homeland Security and Public Safety — committee substitute recommended

VOTE: 9 ayes — Nevárez, Paul, Burns, Calanni, Clardy, Goodwin, Israel, Lang, Tinderholt

0 nays

WITNESSES: For — Scott Jones, Bryan Police Department; Robert Garcia, Round Rock Police Department; (*Registered, but did not testify*: Anne O'Ryan, AAA Texas; Adam Cahn, Cahnman's Musings; Steve Bresnen, El Paso County; Mark Ramsey, Republican Party of Texas; Vincent Giardino, Tarrant County Criminal District Attorney's Office; Noel Johnson, TMPA; Sam Bryant; Terri Hall; Susan Peabody; William Zimmerman)

Against — None

On — John Barton, Justices of the Peace and Constables Association; (*Registered, but did not testify*: Mike Lesko, Texas Department of Public Safety)

BACKGROUND: Government Code sec. 509.004(a) requires the Community Justice Assistance Division of the Texas Department of Criminal Justice (TDCJ) to submit certain information to the Department of Public Safety about persons prohibited from operating a motor vehicle without an alcohol monitoring device.

DIGEST: CSHB 364 would require courts, magistrates, and judges to provide the Texas Department of Public Safety (DPS) with information about defendants who were restricted to operating a motor vehicle with an ignition interlock device or required to use any other alcohol monitoring device. DPS would be required to maintain this information in a database that could be made available to a peace officer through a mobile data terminal.

The bill would make it a class C misdemeanor (maximum fine of $500) to violate an ignition interlock restriction or alcohol monitoring requirement.

Database. The database would include the name and birth date of each defendant subject to an ignition interlock restriction or alcohol monitoring requirement as a condition of bail or community supervision. This information also would be included for each defendant subject to an ignition interlock restriction as a condition of an occupational driver's license following conviction of certain intoxication offenses or due to a court order following repeat convictions for operating a motor vehicle while intoxicated.

The database also would have to contain the date that each restriction would expire. A defendant's name would be removed upon the expiration or termination of the restriction or requirement.

Reporting requirements. Magistrates or judges would be required to submit to DPS a copy of orders relating to restrictions or requirements for alcohol monitoring, along with the defendant’s name and date of birth and the date the restriction or requirement would expire, as applicable.

A court receiving an indictment or information alleging an offense for which the defendant was subject to alcohol monitoring as a condition of bond would be required to notify DPS of the defendant’s name and date of birth and whether the defendant remained subject to the condition. After a defendant's conviction of certain intoxication offenses, a court would determine whether a defendant had been subject to such a condition of bond. Within five days of conviction, the clerk of the court would be required to provide DPS with a copy of the order of conviction, the defendant’s name and date of birth, and whether the defendant remained subject to the condition following conviction.

TDCJ would no longer have to require local probation departments to provide DPS with information about persons prohibited from operating a motor vehicle without an alcohol monitoring device.

Bond. The bill would allow a magistrate to require alcohol monitoring through a device other than an ignition interlock device as a condition of

release on bond for certain intoxication offenses. The cost of alcohol monitoring could be assessed as court costs or ordered paid by the defendant as a condition of bond.

Effective date. DPS would be required to design and implement the database by January 1, 2020, and the reporting requirements imposed on courts, magistrates, and judges would apply to an order, indictment, or information on or after that date.

The bill would take effect September 1, 2019.

SUPPORTERS SAY:

CSHB 364 would increase compliance with court-ordered alcohol monitoring by requiring courts to provide information on drivers subject to monitoring to DPS for a centralized database that would be available to police during a traffic stop. The bill would enhance compliance by making it a misdemeanor to violate such a court order.

The bill would close gaps in current law that could allow defendants to circumvent court-ordered alcohol monitoring requirements. Courts are not required to submit information about drivers ordered to use these devices, and police have no way of knowing whether a driver is required to have an ignition interlock or other alcohol monitoring device unless the device is installed in the vehicle being stopped. Even when police become aware that a driver is violating such an order, there is no mechanism to make the court aware of the violation.

By making a violation of court-ordered alcohol monitoring a misdemeanor punishable only by a maximum fine of $500 that could be waived by the court, the bill balances the need to create a mechanism for informing the court of a violation with concerns about unduly punishing violators.

OPPONENTS SAY:

CSHB 364 would criminalize violations of court orders that already can be addressed through other mechanisms, such as revocation of bond or probation.

SUBJECT: Requiring even distribution of SNAP benefits throughout the month

COMMITTEE: Human Services — favorable, without amendment

VOTE: 9 ayes — Frank, Hinojosa, Clardy, Deshotel, Klick, Meza, Miller, Noble, Rose

0 nays

WITNESSES: For — Celia Cole, Feeding Texas; Dya Campos, H-E-B; George Kelemen, Texas Retailers Association; (*Registered, but did not testify*: Mia McCord, Texas Conservative Coalition; Morris Wilkes, United Supermarkets)

Against — None

On — Rachel Cooper, Center for Public Policy Priorities; Todd Byrnes, Health and Human Services Commission

BACKGROUND: Human Resources Code sec. 33.002(c) requires the Department of Agriculture and the executive commissioner of the Health and Human Services Commission to establish policies to ensure the widest and most efficient distribution of supplemental nutrition assistance program benefits to eligible recipients.

DIGEST: HB 1218 would require the executive commissioner of the Health and Human Services Commission to establish a distribution schedule for supplemental nutrition assistance programs (SNAP) that ensured the even distribution of the benefits each month over a 28-day period. The executive commissioner would be required to make any necessary rule changes to implement the bill by September 1, 2020.

The bill would apply to newly eligible SNAP recipients as of September 1, 2020, and would not affect the distribution schedules of current recipients.

If the state agency determined that a waiver or authorization from a

federal agency was necessary to implement a provision the bill, it could delay implementation of that provision until the waiver or authorization was granted.

HB 1218 would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.

SUPPORTERS SAY:

HB 1218 would improve the shopping experience for customers and allow retailers to better predict staffing requirements to meet demand by requiring the distribution of SNAP benefits over a 28-day period.

Under the current system, HHSC distributes all SNAP benefits within the first half of the month, causing stores to be busier at the beginning of the month and run out of perishables by the end of the month. Providing a more even distribution through each benefit period would mean SNAP recipients would be less likely to face long lines at the grocery store early in the month and all customers would be less likely to face shortages later in the month.

Retailers have to employ more part-time staff to handle the increased demand during the first half of the month and have difficulty keeping shelves stocked with fresh produce and perishable food items. The bill would ease inventory logistics for grocery stores and allow them to hire more full-time staff.

Recent changes in the HHSC computer system would allow the agency to implement the bill while ensuring compliance with federal law that requires no more than 40 days elapse between any two consecutive monthly SNAP distributions.

OPPONENTS SAY:

No concerns identified.

SUBJECT: Allowing the city of Corinth to create a fire and EMS district

COMMITTEE: Urban Affairs — favorable, without amendment

VOTE: 8 ayes — Button, Shaheen, J. González, Goodwin, E. Johnson, Middleton, Patterson, Swanson

0 nays

WITNESSES: For — Michael Ross, City of Corinth; (*Registered, but did not testify*: Monty Wynn, Texas Municipal League)

Against — None

On — LeeAnn Bunselmeyer, City of Corinth

DIGEST: HB 747 would allow the governing body of a municipality with a population of at least 19,000 and less than 60,000 that contains a campus of North Central Texas College (Corinth) to propose the creation of a fire control, prevention, and emergency medical services district.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.

SUPPORTERS SAY: HB 747 would allow the city of Corinth to propose the creation of a fire and emergency services district. Creation of such a district would have to be approved by local voters. If approved, creation of the district would enable the city to establish a dedicated funding mechanism for fire and emergency services.

Corinth's recent population growth has increased the city’s cost for fire and emergency services. City officials would like to create a fire and emergency services district so they can permanently dedicate a portion of the sales tax to support these necessary services. The current code contains a set of population brackets that do not allow the city to propose the establishment of such a district. By expanding these brackets to

include Corinth, the bill would allow the city to establish a secure, dedicated source of funding for its fire and emergency services.

OPPONENTS SAY:

No concerns identified.

SUBJECT: Requiring courts to consider primary caretaker status in sentencing

COMMITTEE: Corrections — favorable, without amendment

VOTE: 7 ayes — White, Allen, Bailes, Bowers, Dean, Sherman, Stephenson

0 nays

1 absent — Neave

WITNESSES: For — Lauren Johnson, ACLU of Texas; Kaitlin Owens, American Conservative Union; Lindsey Linder, Texas Criminal Justice Coalition; Kaycie Alexander, Texas Public Policy Foundation; Jason Vaughn, Texas Young Republicans; Michelle Ramirez, Youth Rise Texas; Koretta Brown; Elizabeth Gillette; Mia Greer; Margarita Luna; and Kirsten Ricketts; (*Registered, but did not testify*: Terra Tucker, Alliance for Safety and Justice; Hal Wuertz, Austin Justice Coalition; Traci Berry, Goodwill Central Texas; Julia Egler, National Alliance on Mental Illness Texas; Will Francis, National Association of Social Workers-Texas Chapter; Mary Mergler, Texas Appleseed; Lori Henning, Texas Association of Goodwills; Kathryn Freeman, Texas Baptist Christian Life Commission; Michael Barba, Texas Catholic Conference of Bishops; Lauren Oertel, Texas Inmate Families Association; Alexis Tatum, Travis County Commissioners Court)

Against — None

On — Karen Keith; (*Registered, but did not testify*: Manny Rodriguez, Texas Department of Criminal Justice)

BACKGROUND: Code of Criminal Procedure art. 42A.101 defines deferred adjudication as a form of probation under which a judge, after receiving a plea of guilty or no contest, postpones the determination of guilt while the defendant serves probation. It can result in the defendant being discharged and dismissed upon successful completion of that probation.

DIGEST: HB 1389 would require courts to consider a criminal defendant's status as

a primary caretaker of a child before entering an adjudication of guilt or imposing a sentence on a defendant who was eligible for probation.

The bill would define a "primary caretaker of a child" as a person who assumed, or soon would assume, responsibility for a dependent child younger than 18 by providing for the child's needs, including housing, health care, financial support, education, family support, or safety. Those who temporarily relinquished custody of a child because of pretrial detention also would be considered primary caretakers.

Community supervision. After receiving a written motion including evidence of caretaker status from a defendant who entered a plea of guilty or no contest, a court would be required to make written findings regarding the defendant's primary caretaker status. The court then could place the defendant on deferred adjudication or community supervision, as applicable.

In the absence of a written motion from a defendant, a court could place a defendant who was a primary caretaker on deferred adjudication or community supervision if the court decided that was in the best interest of society, the defendant, and the defendant's children.

Conditions of supervision. Courts could impose conditions of supervision that emphasized rehabilitation and parent-child unity and provided support to parent-child relationships, including conditions related to:

- alcohol or substance abuse counseling or treatment;
- domestic violence education and prevention;
- physical or sexual abuse counseling;
- anger management;
- vocational, technical, or career education or training, including financial literacy;
- affordable and safe housing assistance;
- parenting skills;
- family or individual counseling; or
- family case management services.

A court that placed a defendant on deferred adjudication or community supervision could not require as a condition of probation that the defendant be confined, with some exceptions:

- a court proceeded with an adjudication of guilt for someone placed on deferred adjudication;
- a court determined that the defendant violated a condition of probation; or
- the defendant's probation was revoked.

The bill would take effect September 1, 2019, and would apply to defendants who were sentenced for an offense on or after that date.

SUPPORTERS SAY:

HB 1389 would ensure that courts considered a defendant's status as a primary caretaker of a child so that a fair and appropriate punishment could be imposed on such defendants. While caretakers should be held responsible for their actions, courts should first consider probation as an alternative to incarceration that would allow caretakers to remain with their children and rehabilitate in the community.

Studies show that the separation of a child and a parent can result in serious mental, physical, and emotional health issues for the child. In addition, confining children's caretakers can lead to children being placed in foster care or other vulnerable situations. By eliminating confinement as a condition of probation for primary caretakers, the bill would ensure that caretakers were not separated from their children if a judge elected to place them on probation. This would keep more families together and benefit the caretakers, children, and community.

Judges would retain discretion within the parameters set by the bill to craft sanctions to fit specific individuals and cases. Judges who deemed probation an inappropriate punishment for a particular caretaker still could levy incarceration as a punishment. Additionally, caretakers who violated their probation could be subject to confinement.

HB 1389 also would save taxpayer money by keeping caretakers out of jails and prison and allowing them to keep their jobs and pay taxes.

Placing defendants on probation is much less expensive than incarcerating them and better enables defendants to rehabilitate in their communities.

OPPONENTS SAY:

HB 1389 would reduce judges' discretion to confine a primary caretaker as a condition of probation, giving caretakers an unfair benefit over non-caretakers. For example, those placed on probation for certain intoxication offenses must be confined for a period of time as a condition of probation. That requirement would not apply to caretakers under this bill. Judges should continue to have the full range of options when crafting sanctions.

OTHER OPPONENTS SAY:

HB 1389 also should explicitly apply to pregnant women, who deserve the same protection under the bill as other caretakers.

SUBJECT: Requiring motorboat operators to use emergency engine cutoff switches

COMMITTEE: Culture, Recreation and Tourism — favorable, without amendment

VOTE: 8 ayes — Cyrier, Martinez, Bucy, Gervin-Hawkins, Holland, Kacal, Morrison, Toth

0 nays

1 absent — Jarvis Johnson

WITNESSES: For — James Gorzell; (*Registered, but did not testify*: Quint Balkcom, Game Warden Peace Officer's Association; J. McCartt, Kalkomey Enterprises; Kirby Gorzell)

Against — None

On — Cody Jones, Texas Parks and Wildlife Department

DIGEST: HB 337 would require the operator of a motorboat less than 26 feet in length and equipped by the manufacturer with an engine cutoff switch to verify that the cutoff switch was functioning properly and attached to the operator or each individual on the boat, depending on the type of switch. Operating a motorboat of this size and equipped with a cutoff switch without first doing so would be prohibited.

The bill would define an engine cutoff switch as an emergency switch designed to shut off the engine of a motorboat if activated by the operator or passenger falling overboard or moving beyond the length of the lanyard. If the switch was operated using a lanyard attachment, the lanyard would be required to be attached to the boat operator's body, clothing, or personal flotation device. If the switch was operated by a wireless attachment, an operational man-overboard transmitter would be required to be properly attached to each individual on the motorboat.

This bill would take effect September 1, 2019.

SUPPORTERS This bill would require motorboat operators and passengers to use safety

SAY:

equipment already installed on their boats, improving boater safety and saving lives. When a boater is thrown from a motorboat and the engine is left running, boaters can be seriously injured or killed by the motor blades. Requiring the use of a cutoff switch would help prevent these kinds of accidents from occurring.

The bill would only require the use of engine shutoff switches that were installed on boats by the boats' manufacturers. Boaters would not be required to retrofit boats with shutoff switches. Texas already requires any operator of a personal watercraft, such as a jet ski, to use an installed emergency cutoff switch. This bill would extend the same precaution to the operators and passengers of motorboats under 26 feet, saving lives without creating an excessive burden on boaters.

OPPONENTS SAY:

HB 337 would create excessive regulations for the operation of motorboats and the testing and use of safety equipment. Boat operators and passengers should be allowed to use their own assessments of risks to make decisions regarding their safety.

SUBJECT: Providing for endorsements for students enrolled in special education

COMMITTEE: Public Education — favorable, without amendment

VOTE: 12 ayes — Huberty, Bernal, Allen, Allison, Ashby, K. Bell, M. González, K. King, Meyer, Sanford, Talarico, VanDeaver

0 nays

1 absent — Dutton

WITNESSES: For — Steven Aleman, Disability Rights Texas; Kristin Mcguire, Texas Council of Administrators of Special Education; Kyle Piccola, The Arc of Texas; (*Registered, but did not testify*: Andrea Chevalier, Association of Texas Professional Educators; Jacquie Benestante, Autism Society of Texas; Chris Masey, Coalition of Texans with Disabilities; Lisa Flores, Easter Seals Central Texas; Jolene Sanders, Easterseals Texas; Will Francis, National Association of Social Workers-Texas Chapter; Deborah Caldwell, North East Independent School District; Seth Rau, San Antonio ISD; Christine Broughal, Texans for Special Education Reform; Ted Raab, Texas American Federation of Teachers; Barry Haenisch, Texas Association of Community Schools; Casey McCreary, Texas Association of School Administrators; Grover Campbell, Texas Association of School Boards; Lonnie Hollingsworth, Texas Classroom Teachers Association; Linda Litzinger, Texas Parent to Parent; Kyle Ward, Texas PTA; Dee Carney, Texas School Alliance; Lisa Dawn-Fisher, Texas State Teachers Association)

Against — None

On — (*Registered, but did not testify*: Eric Marin, Justin Porter, and Monica Martinez, Texas Education Agency)

BACKGROUND: Education Code sec. 28.025(c-1) allows high school students to earn endorsements on their transcript by successfully completing curriculum requirements adopted by the State Board of Education. Sec. 28.025(c-2) requires students to successfully complete four credits in mathematics,

four credits in science, and two elective credits to earn an endorsement.

19 TAC ch. 89, subch. AA, sec. 89.1070 prohibits students receiving special education services from receiving an endorsement if the qualifying course curriculum was modified for a student.

DIGEST:

HB 165 would allow a student enrolled in a special education program to earn an endorsement on the student's transcript if the student successfully completed, with or without modification:

- the curriculum requirements for the foundation high school program identified by the State Board of Education (SBOE); and
- the additional endorsement curriculum requirements listed in Education Code sec. 28.025(c-2).

The bill would require the student to complete all curriculum requirements for a specific endorsement adopted by the SBOE, either without modification or with modification if the modified curriculum was determined by the student's admission, review, and dismissal committee to be sufficiently rigorous.

The admission, review, and dismissal committee also would determine whether the student was required to achieve satisfactory performance on an end-of-course assessment to earn an endorsement.

HB 165 would apply beginning with the 2019-2020 school year.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.

SUPPORTERS SAY:

HB 165 would allow students in special education programs to be provided with the same opportunities as their peers. It also would make students in special education programs more competitive applicants for admission to Texas universities.

HB 165 would bridge an equity gap in endorsements for students with disabilities by providing them the opportunity to show mastery in the

rigorous course curriculum required of all students seeking an endorsement. Endorsements provide students with in-depth knowledge in their areas of interest and are a requirement for students seeking to earn the Distinguished Level of Achievement upon graduation, which is one eligibility requirement for automatic admission to a Texas public college or university.

Under existing law, students receiving a modified curriculum may not earn endorsements, which automatically prevents them from earning a Distinguished Level of Achievement. The bill would allow students in special education programs the opportunity to reach for the same outstanding performance enhancements as their peers.

OPPONENTS SAY:

No concerns identified.

SUBJECT: Requiring an annual statistical report on TDCJ inmates who are parents

COMMITTEE: Corrections — favorable, without amendment

VOTE: 6 ayes — White, Allen, Bailes, Dean, Sherman, Stephenson

0 nays

2 absent — Bowers, Neave

WITNESSES: For — Lauren Johnson, ACLU of Texas; Jason Vaughn, Texas Young Republicans; Koretta Brown (*Registered, but did not testify*: Terra Tucker, Alliance for Safety and Justice; Hal Wuertz, Austin Justice Coalition; Traci Berry, Goodwill Central Texas; Will Francis, National Association of Social Workers-Texas Chapter; Mary Mergler, Texas Appleseed; Kathryn Freeman, Texas Baptist Christian Life Commission; Lindsey Linder, Texas Criminal Justice Coalition; Lauren Oertel, Texas Inmate Families Association; Mia Greer; Margarita Luna; Kirsten Ricketts)

Against — None

On — Jason Clark, Texas Department of Criminal Justice

DIGEST: HB 659 would require the Texas Department of Criminal Justice (TDCJ) to maintain and annually update statistical information on the number of inmates in a facility operated by or under contract with TDCJ who were parents of a child of any age.

By December 31 of each year, TDCJ would be required to submit a report to the Texas Education Agency and Department of Family and Protective Services summarizing this statistical information.

The bill would take effect September 1, 2019. The first report would be required to be submitted no later than December 31, 2020.

SUPPORTERS SAY: HB 659 would provide the Texas Education Agency and Department of Family and Protective Services with information that would be valuable

for state agencies and advocacy groups in crafting programs and services for incarcerated parents and their children.

A child with an incarcerated parent is more likely to be at risk of committing crimes later in life, and providing support to children while their parent is incarcerated could have significant long-term crime deterrence effects. To combat this problem, Texas has recently begun investing in programs aimed at youth with incarcerated parents, but there currently is no statewide mechanism for reporting the number of inmates with children.

Under current TDCJ policy, inmates are asked during intake to self-report whether they have children. This information is stored on a TDCJ computer system, meaning it would require little effort or cost for the department to generate an annual report.

OPPONENTS SAY:

Although HB 659 would provide valuable information, the current form of the bill could result in statistical information with certain limitations. Because HB 659 requires TDCJ to collect and publish information on parents of a child of any age, the reported information could be broader than is needed for the purpose of identifying at-risk minors. As a result, certain categories of aggregated information could be of only limited use.

The information is self-reported, so the statistics could have certain gaps, as the reports would be limited by the inmate's memory and knowledge of the self-reported facts.